

House Bill 535

By: Representative Day of the 163<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 14 of Title 25 of the Official Code of Georgia Annotated, relating to Georgia fire safety standard and firefighter protection, so as to prohibit the sale of novelty cigarette lighters; to provide for definitions; to provide civil penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 14 of Title 25 of the Official Code of Georgia Annotated, relating to Georgia fire safety standard and firefighter protection, is amended by adding a new Code section to read as follows:

"25-14-12.

(a) As used in this Code section, the term 'novelty lighter' means a mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes that has entertaining audio or visual effects or that resembles in physical form or function articles commonly recognized as appealing to or intended for use by children ten years of age or younger, including, but not limited to, lighters resembling cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.

(b) No supplier of novelty lighters in this state, including a manufacturer, retail dealer, wholesale dealer, or person or entity, shall sell or give away as a prize or promotion an operable novelty lighter.

(c) This Code section shall not apply to:

(1) The transportation of novelty lighters through this state;

(2) The storage of novelty lighters in a warehouse or distribution center in this state that is closed to the public for purposes of retail sales;

(3) Cigarette lighters that were made before January 1, 1985, and that are considered to be collectable items; or

(4) Wholesale or retail dealers selling their existing inventory of novelty lighters before July 1, 2010, where such inventory was purchased prior to July 1, 2009.

(d) Except as provided in subsection (e) of this Code section, a manufacturer, wholesale dealer, or any other person or entity who knowingly sells or offers to sell novelty lighters in violation of this Code section shall be subject to a civil penalty not to exceed \$100.00 dollars for each novelty lighter sold or offered for sale, provided that in no case shall the penalty against any such person or entity exceed \$25,000.00 during any 30 day period.

(e) A retail dealer who knowingly sells or offers to sell a novelty lighter in violation of this Code section shall be subject to a civil penalty not to exceed \$100.00 for each novelty lighter, provided that in no case shall the penalty against any retail dealer exceed \$5,000.00 during any 90 day period.

(f) In addition to any other remedy provided by law, the Commissioner or Attorney General may file an action in superior court for a violation of this Code section, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this Code section, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this Code section or of rules or regulations adopted under this Code section constitutes a separate civil violation for which the Commissioner or Attorney General may obtain relief.

(g) Whenever any law enforcement personnel, duly authorized representative of the Commissioner or Attorney General, or other authorized personnel shall discover any novelty lighter, such personnel is hereby authorized and empowered to seize and take possession of such novelty lighter. Such novelty lighters shall be turned over to the Commissioner and shall be forfeited to the state as contraband. Novelty lighters seized pursuant to this subsection shall be destroyed. Destruction shall be witnessed by at least two employees of the Commissioner, and documentation of such destruction shall be made which describes the contraband, time and location of the destruction, witnesses to the destruction, and such other information as required by the Commissioner.

(h) The Commissioner may promulgate rules and regulations necessary to effectuate the purposes of this Code section.

(i) The commissioner of the Department of Revenue in the regular course of conducting inspections of wholesale dealers and retail dealers, as authorized under Chapter 11 of Title 48, may inspect for novelty lighters prohibited by this Code section. The commissioner of the Department of Revenue shall notify the Commissioner of any prohibited novelty lighters located or seized and shall take all reasonable measures to preserve evidence of violations."

63 **SECTION 2.**

64 This Act shall become effective upon its approval by the Governor or upon its becoming law  
65 without such approval.

66 **SECTION 3.**

67 All laws and parts of laws in conflict with this Act are repealed.